



Attorney General Jon Bruning

NEWS RELEASE

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Attorney General Bruning Files Motion for Rehearing With Nebraska Supreme Court

Note: Sound bites on this topic will be available soon at: <http://www.ago.ne.gov>

(Lincoln, Neb.) Attorney General Jon Bruning today officially asked the Nebraska Supreme Court to reconsider its ruling that says electrocution is cruel and unusual punishment under Nebraska's Constitution. Bruning filed a motion for rehearing this afternoon with the state's high court.

"I don't think the people of Nebraska intended to provide murderers greater protection under our Nebraska Constitution than those same murderers would receive under the federal constitution," said Bruning.

The motion lists five errors in the ruling:

1. The ruling created a new procedure requiring the Attorney General to prove a new method of execution is constitutional. This overthrows 130 years of precedent set by the Nebraska Supreme Court holding that legislation is presumed to be constitutional.
2. The ruling overturned a long series of cases that say the Nebraska Constitution offers criminals no greater protection than the federal constitution. With the recent ruling, the court says the Nebraska Constitution offers criminals greater protection than the same language in our federal constitution.
3. The ruling erred in only looking to other federal court cases and other state legislatures to decide what "standards of decency" are in Nebraska. The ruling relied on no Nebraska statutes, no Nebraska court rulings and no other indicators of what Nebraskans think about the issue. The Nebraska Constitution isn't a statement of national values. It's a statement of Nebraska values. Other states don't set "standards of decency" for Nebraskans.
4. The ruling gave no clear guidance on what standard would be applied to evaluate a new method of execution. For example, the ruling speaks of "a substantial risk of unnecessary pain," but fails to say what type or level of "necessary" pain would be acceptable.
5. The high court decided this case on a state constitutional theory Raymond Mata never raised and the state was never given the opportunity to address.

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